



General Assembly

February Session, 2006

Raised Bill No. 5690

LCO No. 2661

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Referred to Committee on General Law

Introduced by:
(GL)

AN ACT CONCERNING USED AUTOMOBILE WARRANTIES.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective October 1, 2006*) (a) For purposes of this
2 section:

3 (1) "Business day" means Monday to Friday, inclusive, except for
4 state or federal holidays.

5 (2) "Consumer" means a buyer, other than for purposes of resale, of
6 a motor vehicle, any person to whom such motor vehicle is transferred
7 during the period of any express or statutory warranty under this
8 section applicable to such motor vehicle, and any other person entitled
9 by the terms of such warranty to enforce its obligations.

10 (3) "Dealer" means any person engaged in the business of selling,
11 offering for sale, or negotiating the retail sale of used motor vehicles or
12 selling motor vehicles as broker or agent for another, including the
13 officers, agents and employees of such person and any combination or
14 association of dealers, but not including a bank or other financial
15 institution, or this state, its agencies, boards, commissions, authorities,

16 nor any of its political subdivisions. A person shall be deemed to be
17 engaged in the business of selling used motor vehicles if such person
18 has sold more than three used motor vehicles in the preceding twelve
19 months.

20 (4) "Motor vehicle" or "vehicle" means any motor vehicle, as defined
21 in section 14-1 of the 2006 supplement to the general statutes, sold or
22 replaced by a dealer or manufacturer, except that it shall not include
23 motor homes, vehicles built primarily for off-road use or any vehicle
24 used primarily for business purposes.

25 (5) "Private seller" means any person who is not a dealer and who
26 offers to sell or sells a used motor vehicle to a consumer.

27 (6) "Purchase price" means the total of all payments made for the
28 purchase of a vehicle, including, but not limited to, any finance
29 charges, registration fees, payments made for credit life, accident,
30 health, and damage insurance, and collision and related
31 comprehensive insurance coverages and service contracts and the
32 value of a trade-in.

33 (7) "Repurchase price" means the purchase price, as defined in this
34 subsection, less any cash award that was made by the dealer in an
35 attempt to resolve the dispute and was accepted by the consumer, and
36 less any refunds or rebates to which the consumer is entitled, plus any
37 incidental damages not previously reimbursed, including, but not
38 limited to, the reasonable costs of towing from point of breakdown up
39 to thirty miles to obtain required repairs or to return the vehicle under
40 this section, and the reasonable costs of obtaining alternative
41 transportation during the applicable warranty period after the second
42 day following each such breakdown not to exceed fifteen dollars
43 vehicle rental charges for each day in which the cost of such alternative
44 transportation is reimbursable.

45 (8) "Used motor vehicle" or "used vehicle" means any vehicle driven
46 more than the limited use necessary in moving or road testing a new

47 vehicle prior to delivery to a consumer, including a demonstrator
48 vehicle, except that it shall not include motor homes, vehicles built
49 primarily for off-road use, motorcycles, or any vehicle used primarily
50 for business purposes.

51 (b) (1) No used motor vehicle shall be sold in this state by a dealer to
52 a consumer unless accompanied by an express written warranty
53 covering the full cost of both parts and labor necessary to repair any
54 defect that impairs said used motor vehicle's safety or use; provided,
55 the consumer may be required to pay no more than one hundred
56 dollars toward the repair of any covered defect, series of defects or
57 combination of defects during the warranty period. Defects that affect
58 only appearance shall not be deemed to impair safety or use for the
59 purposes of this section. For the purposes of this section, defect shall
60 include defect, malfunction or any combination or defects or
61 malfunctions. (2) Defects or malfunctions which involve parts or
62 components that are covered or are warranted under an express
63 warranty issued by the dealer of the used motor vehicle shall be
64 excluded from this section if the following conditions have been met:
65 The manufacturer's warranty has been duly assigned or transferred to
66 the buyer; is enforceable according to its terms; is not inconsistent with
67 this section; and the seller has assured that the repair authorized by
68 such manufacturer's express warranty was made. The terms of the
69 seller's warranty shall be tolled for any period of time the used motor
70 vehicle is out of service by reason of repair under the manufacturer's
71 warranty.

72 (c) The express warranties required by this section shall be of the
73 following durations: (1) For a used motor vehicle which, at the time of
74 sale, has been operated less than forty thousand miles, ninety days or
75 three thousand seven hundred fifty miles, whichever occurs first. Said
76 ninety days or three thousand seven hundred fifty mile warranty is in
77 addition to any right the consumer may have under this section. (2)
78 For a used motor vehicle which, at the time of sale, has been operated
79 forty thousand miles or more, but less than eighty thousand miles,

80 sixty days or two thousand five hundred miles, whichever occurs first.
81 (3) For a used motor vehicle which, at the time of sale, has been
82 operated eighty thousand miles or more, but less than one hundred
83 twenty-five thousand miles, thirty days or one thousand two hundred
84 and fifty miles, whichever occurs first. (4) If the used motor vehicle's
85 true mileage is not known, such warranty period shall be determined
86 by the age of said used motor vehicle in the following manner: A used
87 motor vehicle three years old or less shall have a warranty as provided
88 in subdivision (1) of this subsection; a used motor vehicle more than
89 three, but less than six years old, shall have a warranty as provided in
90 subdivision (2) of this subsection; and a used motor vehicle six years
91 old or more shall have a warranty as provided in subdivision 3 of this
92 subsection. A used motor vehicle's age shall be determined by
93 subtracting its model year from the year in which the warranty holder
94 purchased said used vehicle.

95 (d) The warranty periods established by this section shall be tolled
96 during any period in which the used motor vehicle is out of service as
97 a result of any repair attempt pursuant to any warranty created by this
98 section. The applicable warranty period shall be extended thirty days
99 from the date of completion of any repair required by this section as to
100 the defect repaired if the warranty would otherwise have expired
101 during such period.

102 (e) A dealer may repair, within the meaning of this section, either by
103 performing the repair himself or herself or by arranging and making
104 payment for prompt repair by another.

105 (f) (1) A consumer shall return a vehicle for repair under this section
106 by presenting it to the dealer not later than five business days after the
107 expiration of the applicable warranty period and informing the dealer
108 of the defect. Said return period shall be tolled during any time period
109 in which the consumer has notified the dealer of the defect but cannot
110 reasonably present the vehicle to the dealer; including, but not limited
111 to, the reason that a used motor vehicle is inoperable and the dealer

112 refuses to pay the charge to tow said vehicle. The dealer shall
113 immediately accept return of a vehicle when it is so presented. Said
114 used motor vehicle shall be deemed out of service commencing the
115 day it is so presented, notwithstanding any dealer's failure to accept its
116 return on said day. During the applicable warranty period and the
117 aforesaid return period, the dealer shall pay the reasonable costs of
118 towing from point of breakdown up to thirty miles to obtain required
119 repairs or to return the vehicle to the dealer. (2) Upon return of the
120 used motor vehicle to the consumer after repair, the dealer shall
121 provide the consumer with a warranty repair receipt describing (A) the
122 defect complained of, (B) the work performed in an attempt to correct
123 such defect and the identity of the repairer if it is not the dealer, and
124 (C) the parts replaced in performing such work. For the dealer to toll
125 the ten business day period, said dealer shall attach to each such
126 warranty repair receipt copies of such order forms, invoices, receipts or
127 other evidence of a parts order and its receipt to evidence his
128 compliance with this subsection.

129 (g) (1) If the dealer fails to repair the same defect within three
130 attempts, or if the used motor vehicle is out of service for more than a
131 cumulative total of ten business days after the consumer has returned
132 it to the dealer for repair of the same, then the dealer shall accept
133 return of the vehicle from the consumer and refund the full repurchase
134 price, less a reasonable allowance for use. A reasonable allowance for
135 use shall be fifteen cents for each mile the used motor vehicle has been
136 operated between its sale and the dealer's repurchase. (2) A consumer
137 shall have the option of retaining the use of any vehicle returned under
138 the provisions of this section until such time as said consumer has been
139 tendered a full refund. The use of any vehicle retained by a consumer
140 after its return to a manufacturer under the provisions of this section,
141 shall, in instances in which a refund is tendered, be reflected in the
142 above-mentioned reasonable allowance for use. (3) A used motor
143 vehicle shall not be considered out of service for purposes of the ten
144 business day period described in this subsection for any day in which
145 a part necessary to repair a defect complained of is not in the dealer's

146 possession; provided, the dealer has ordered the part by reasonable
147 means on the same day on which he knew or should have known that
148 the part was necessary, except that in no event shall a part's
149 unavailability operate to toll the ten business day period for more than
150 twenty-one days. The applicable warranty period shall be extended by
151 the number of days a part is unavailable.

152 (h) All dealers shall submit to state-certified, used car arbitration, if
153 such arbitration is requested by the consumer, asserting his or her
154 right to a repurchase under this section, not later than six months after
155 the date of original delivery to such consumer of a used motor vehicle.
156 State-certified, used car arbitration shall be performed by a
157 professional arbitrator or arbitration firm appointed by the
158 Commissioner of Consumer Protection and operating in accordance
159 with the regulations adopted pursuant to this section, and shall result
160 in a written finding of whether the motor vehicle in dispute meets the
161 standards set forth by this section for vehicles that are required to be
162 repurchased. Said finding shall be issued not later than forty-five days
163 after receipt by said commissioner of a request by a consumer for state-
164 certified arbitration under this section.

165 (i) The Commissioner of Consumer Protection shall adopt
166 regulations in accordance with the provisions of chapter 54 of the
167 general statutes governing the proceedings of state-certified, used car
168 arbitration which shall promote their fairness and efficiency. Such
169 regulations shall include, but not be limited to, a requirement of the
170 personal objectivity of each such arbitrator, and the protection of the
171 right of each party to present its case and to be in attendance during
172 any presentation made by the other party.

173 (j) If a motor vehicle is found by state-certified, used car arbitration
174 to have met the standards set forth by this section for vehicles required
175 to be repurchased, and if the dealer who sold said motor vehicle is
176 found to have failed to provide said refund as required, such dealer
177 shall, not later than twenty-one days after the issuance of such finding,

178 deliver such refund, including the incidental and other costs set forth
179 in the definition of "repurchase price" or appeal the finding in a district
180 or superior court. No such appeal by a dealer shall be heard unless it is
181 filed with the superior court not later than twenty-one days after
182 issuance of the finding of the state-certified arbitration and is
183 accompanied by a bond in a principal sum equal to the money award
184 made by the state-certified arbitrator plus five hundred dollars for
185 anticipated attorneys' fees, secured by cash or its equivalent, payable
186 to the consumer.

187 (k) The liability of the surety of any bond filed pursuant to this
188 section shall be limited to the indemnification of the consumer in the
189 action. Such bond shall not limit or impair any right of recovery
190 otherwise available pursuant to law, nor shall the amount of the bond
191 be relevant in determining the amount of recovery to which the
192 consumer shall be entitled.

193 (l) Upon an appeal, the court shall vacate the award only if the
194 award was procured by corruption, fraud or other undue means, there
195 was evident partiality by an arbitrator or corruption in any of the
196 arbitrators, or misconduct prejudicing the rights of any party, or the
197 arbitrators exceeded their powers.

198 (m) In addition to any other recovery, any prevailing consumer
199 shall be awarded reasonable attorneys' fees and costs.

200 (n) If a dealer, within twenty-one days after any finding in favor of
201 the consumer of the state-certified, used car arbitration, fails to appeal
202 such finding and does not deliver a refund, it shall be fined fifty
203 dollars per day until the delivery of such refund. Said fine shall not
204 exceed five hundred dollars for each violation. The amount of said fine
205 shall begin to accumulate on the twenty-second day following the
206 arbitration decision. If eighty-one days has elapsed from the issuance
207 of a finding in favor of the consumer of the state-certified, used car
208 arbitration, and no appeal has been taken and no award delivered and
209 no fine paid, the Attorney General may initiate proceedings against the

210 dealer for failure to pay said fine. The proceedings initiated pursuant
211 to the provisions of this section shall be commenced in superior court
212 of the trial court.

213 (o) In addition to the other remedies provided in this section, the
214 Attorney General may bring an action in superior court to restrain
215 further violation of this section, to enforce any provision, and for such
216 other relief as may be appropriate.

217 (p) At any time within the applicable warranty period and after a
218 consumer has complained of a defect, notwithstanding any objection
219 from the consumer, the dealer shall have the option of repurchasing a
220 used vehicle and refunding the full purchase price, less a reasonable
221 allowance for use. A reasonable allowance for use shall be fifteen cents
222 for each mile the used motor vehicle had been operated between its
223 sale and the dealer's repurchase.

224 (q) If the dealer is required to or elects to repurchase a vehicle under
225 the terms of this section, the consumer and dealer shall cooperate with
226 each other to execute all necessary documents in order to clear the title
227 of any encumbrances on the repurchased vehicle.

228 (r) It shall be an affirmative defense to any claim under this section
229 that an alleged defect (1) does not impair the vehicle's use or safety, (2)
230 is the result of owner negligence, abuse, damage caused by accident,
231 vandalism or an attempt to repair the vehicle by a person other than
232 the dealer, the dealer's designee, or the manufacturer's representative,
233 (3) is the result of any attempt by the consumer to modify the vehicle,
234 (4) was covered or warranted under an express warranty issued by
235 the manufacturer of such used motor vehicle, that such warranty
236 issued by the manufacturer of such used motor vehicle was in effect
237 during the warranty period established by this section.

238 (s) Clear and conspicuous notice of the warranties created by this
239 section, of the rights pertaining thereto, and of the implied warranty of
240 merchantability shall be given to the consumer, in writing, at the time

241 the consumer purchases a used motor vehicle from the dealer. Failure
242 to provide such notice shall toll the warranty periods under this
243 section until such notice is given.

244 (t) The Commissioner of Consumer Protection shall adopt
245 regulations in accordance with the provisions of chapter 54 of the
246 general statutes to implement the notice provisions of this section. Said
247 regulations shall include the establishment of wording, format,
248 placement and distribution of all notices specified in this section. In his
249 or her discretion, and in order to facilitate ease of understanding by
250 consumers, said commissioner may consolidate the notices required by
251 this section and any other notices pertaining to the purchase of motor
252 vehicles; provided such consolidation does not render the notices
253 inconsistent with any of the provisions of this section or the general
254 statutes. Each notice required by this section shall describe the
255 procedures available to redress violations of this section.

256 (u) A dealer's failure to comply with any of the provisions of this
257 section shall be deemed an unfair or deceptive act under subsection (b)
258 of section 42-10b of the general statutes.

259 (v) Notwithstanding any provisions of the general statutes, this
260 section shall not apply to any used motor vehicle sold by a dealer to a
261 consumer for less than seven hundred dollars.

262 (w) A private seller shall clearly disclose to any prospective buyer,
263 before the sale is completed, all defects the seller knows of which
264 impair the used motor vehicle's safety or substantially impair its use.
265 Failure to so disclose known defects shall entitle the buyer, not later
266 than thirty days after the sale, to rescind the sale and be entitled to
267 return of all moneys paid to the seller less a reasonable amount for use.
268 In any subsequent action by a buyer under this section, if a court finds
269 that the settlement offer was unreasonable in light of the circumstances
270 or that the private seller has otherwise failed to comply with the
271 requirements of this subsection, in addition to damages, it shall award
272 the buyer reasonable attorneys' fees and costs. If the court finds that

273 the buyer's action was frivolous or not in good faith, it shall award the
274 seller reasonable attorneys' fees and costs. It shall be an affirmative
275 defense in any such action that an alleged defect does not impair the
276 vehicle's safety, or substantially impair its use, or that it is the result of
277 the buyer's negligence, abuse, damage caused by accident, vandalism
278 or attempt to modify the vehicle.

279 (x) Nothing in this section shall be construed in any way to limit the
280 enforceability of any implied warranties created by this section or by
281 the general statutes or any regulations adopted pursuant thereto, or
282 express warranties given by a dealer in connection with the sale of a
283 used motor vehicle, or any other rights or remedies available to
284 consumers under the general statutes.

285 (y) If a consumer is eligible for relief under the provisions of this
286 section to have repairs effected or other relief provided under the
287 provisions of an express warranty covering such used motor vehicle
288 issued by the manufacturer of such used motor vehicle, said consumer
289 shall make reasonable effort in accordance with the terms and
290 conditions thereof to obtain such relief or repairs before seeking
291 enforcement of rights under this section. If the consumer,
292 notwithstanding his eligibility to do so, is unable to enforce rights
293 under this section or under such express warranty and the dealer
294 provides such relief or, in accordance with the provisions of this
295 section, repurchases such used motor vehicle, the dealer shall be
296 subrogated to the rights of such consumer against such manufacturer
297 express warranty and otherwise in accordance with applicable law,
298 and may enforce the same in his or her name in superior court. Such
299 manufacturer shall hold the dealer harmless from and against all
300 damages, liabilities, losses and reasonable expenses of suit, including
301 reasonable attorneys' fees arising out of or incurred by the dealer by its
302 compliance with the provisions of this section if such manufacturer,
303 having been notified in writing by the dealer that such rights have
304 been asserted by a consumer, fails to resolve the same at its own
305 expense in or within seven business days.

306 (z) The provisions of this section shall not apply to the sale of a
307 leased vehicle by a lessor to the lessee of said vehicle, a family member
308 or employee of said lessee or to the sale of a used motor vehicle by an
309 employer to his employee.

310 Sec. 2. Sections 42-220 to 42-226a, inclusive, of the general statutes
311 are repealed. (*Effective October 1, 2006*)

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>October 1, 2006</i>	New section
Sec. 2	<i>October 1, 2006</i>	Repealer section

Statement of Purpose:

To repeal Connecticut's used automobile warranty laws and replace them with more consumer-friendly provisions.

[Proposed deletions are enclosed in brackets. Proposed additions are indicated by underline, except that when the entire text of a bill or resolution or a section of a bill or resolution is new, it is not underlined.]